

**U.S. District Court
Western District of Pennsylvania (Pittsburgh)
CIVIL DOCKET FOR CASE #: 2:18-cv-01011-DSC**

WESTERN STAR HOSPITAL AUTHORITY INC. v. UNITED STATES DEPARTMENT OF VETERAN AFFAIRS

Assigned to: Judge David S. Cercone
Cause: 05:552 Freedom of Information Act

Date Filed: 07/31/2018

Jury Demand: None

Nature of Suit: 895 Freedom of Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

**WESTERN STAR HOSPITAL
AUTHORITY INC.**
trading and doing business as
METRO HEALTH EMS

represented by **Richard J. Perr**
Fineman Krekstein & Harris, P.C.
Ten Penn Center
1801 Market Street, Suite 1100
Philadelphia, PA 19103
(215) 893-8724
Fax: 215-893-8719
Email: rperr@finemanlawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Laura A. Seider
Wood Smith Henning Berman, LLC
1760 Market Street
Suite 1001
Philadelphia, PA 19103
215-709-2223
Fax: 215-709-2251
Email: lseider@wshblaw.com
ATTORNEY TO BE NOTICED

Phinorice J. Boldin
Fineman Krekstein & Harris
1801 Market Street, Suite 1100
Philadelphia, PA 19103
215-893-9300
Email: pboldin@finemanlawfirm.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES DEPARTMENT
OF VETERAN AFFAIRS**

represented by **Jill Locnikar**
United States Attorney's Office
700 Grant Street, Suite 4000
Pittsburgh, PA 15219
(412) 644-3500
Email: jill.locnikar@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Karen Gal-Or
U.S. Attorney's Office
700 Grant Street, Suite 4000
Pittsburgh, PA 15219
412-644-3500
Email: karen.gal-or@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/31/2018	<u>1</u>	COMPLAINT against UNITED STATES DEPARTMENT OF VETERAN AFFAIRS (Filing fee, including Administrative fee, \$400, receipt number 0315-4812462), filed by WESTERN STAR HOSPITAL AUTHORITY INC.. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4) (dm) (Entered: 07/31/2018)
07/31/2018	<u>2</u>	Disclosure Statement identifying None as corporate parent or other affiliate, by WESTERN STAR HOSPITAL AUTHORITY INC.. (dm) (Entered: 07/31/2018)
08/01/2018	<u>3</u>	MOTION for attorney Phinorice J. Boldin to Appear Pro Hac Vice, (Filing fee \$70, Receipt # 0315-4813140) by WESTERN STAR HOSPITAL AUTHORITY INC.. (Attachments: # <u>1</u> Exhibit A) (Boldin, Phinorice) (Entered: 08/01/2018)
08/01/2018	<u>4</u>	MOTION for attorney Laura A. Seider to Appear Pro Hac Vice, (Filing fee \$70, Receipt # 0315-4813167) by WESTERN STAR HOSPITAL AUTHORITY INC.. (Attachments: # <u>1</u> Exhibit A) (Seider, Laura) (Entered: 08/01/2018)
08/01/2018		CLERK'S OFFICE QUALITY CONTROL MESSAGE re <u>4</u> Motion to Appear Pro Hac Vice, <u>3</u> Motion to Appear Pro Hac Vice. ERROR: Proposed Order was made part of main document. CORRECTION: Attorney advised that in future proposed orders are to be made attachments to the main document. This message is for informational purposes only. (sdp) (Entered: 08/01/2018)
08/06/2018	<u>5</u>	ORDER OF RECUSAL. Magistrate Judge Lisa Pupo Lenihan recused. Signed by Magistrate Judge Lisa Pupo Lenihan on 08/06/2018. (jmb) (Entered: 08/06/2018)
08/07/2018		Judge David S. Cerccone is presiding. (mao) (Entered: 08/07/2018)
08/08/2018	<u>6</u>	TEXT-ORDER granting <u>3</u> Motion for Appearance Pro Hac Vice of Attorney Phinorice J. Boldin on behalf of plaintiff. Signed by Judge David S. Cerccone on 8/8/18. Text-only entry; no PDF document will issue. This text-only entry constitutes the Court's Order or Notice on the matter. (njt) (Entered: 08/08/2018)
08/08/2018	<u>7</u>	TEXT-ORDER granting <u>4</u> Motion for Appearance Pro Hac Vice of Attorney Laura A. Seider on behalf of plaintiff. Signed by Judge David S. Cerccone on 8/8/18. Text-only entry; no PDF document will issue. This text-only entry constitutes the Court's Order or Notice on the matter. (njt) (Entered: 08/08/2018)
09/06/2018	<u>8</u>	NOTICE of Appearance by Karen Gal-Or on behalf of UNITED STATES DEPARTMENT OF VETERAN AFFAIRS. (Gal-Or, Karen) (Entered: 09/06/2018)
09/06/2018	<u>9</u>	MOTION for Extension of Time to File Answer re <u>1</u> Complaint, filed by WESTERN STAR HOSPITAL AUTHORITY INC. by UNITED STATES DEPARTMENT OF VETERAN AFFAIRS. (Attachments: # <u>1</u> Proposed Order) (Gal-Or, Karen) (Entered: 09/06/2018)
09/07/2018	<u>10</u>	ORDER granting <u>9</u> Motion for Extension of Time to Answer, Plead or Otherwise Respond to Complaint. Defendant's answer or other response due by 10/22/18. Signed by Judge David S. Cerccone on 9/7/18. (njt) (Entered: 09/07/2018)
09/20/2018	<u>11</u>	PRAECIPE to Issue Summons by WESTERN STAR HOSPITAL AUTHORITY INC. (Attachments: # <u>1</u> Summons) (Boldin, Phinorice) (Entered: 09/20/2018)
09/20/2018	<u>12</u>	PRAECIPE to Issue Summons by WESTERN STAR HOSPITAL AUTHORITY INC. (Attachments: # <u>1</u> Summons) (Boldin, Phinorice) (Entered: 09/20/2018)
09/20/2018	<u>13</u>	PRAECIPE to Issue Summons by WESTERN STAR HOSPITAL AUTHORITY INC. (Attachments: # <u>1</u> Summons) (Boldin, Phinorice) (Entered: 09/20/2018)
09/20/2018	<u>14</u>	Summons Issued as to UNITED STATES DEPARTMENT OF VETERAN AFFAIRS (nll) (Entered: 09/20/2018)
09/20/2018	<u>15</u>	Summons Issued as to UNITED STATES DEPARTMENT OF VETERAN AFFAIRS (nll) (Entered: 09/20/2018)
09/20/2018	<u>16</u>	Summons Issued as to UNITED STATES DEPARTMENT OF VETERAN AFFAIRS (nll) (Entered: 09/20/2018)

09/20/2018	<u>17</u>	PRAECIPE to Issue Summons by WESTERN STAR HOSPITAL AUTHORITY INC. (Attachments: # <u>1</u> Summons) (Boldin, Phinorice) (Entered: 09/20/2018)
09/20/2018	<u>18</u>	Summons Issued as to UNITED STATES DEPARTMENT OF VETERAN AFFAIRS (nll) (Entered: 09/20/2018)
09/26/2018	<u>19</u>	NOTICE that instant civil action has been designated for placement into the United States District Court's Alternative Dispute Resolution program. Parties are directed to fully complete the required 26(f) report, which includes the stipulation of selecting an ADR process. Counsel for plaintiff (or in the case of a removal action, counsel for removing defendant) shall make service of the notice on all parties. (njt) (Entered: 09/26/2018)
09/26/2018	<u>20</u>	ORDER scheduling Initial Case Management Conference for 11/8/18 at 11:30 AM in Courtroom 7A before Judge David S. Cercone. Rule 26 conference to be held on or before 10/19/18. Stipulation Selecting ADR Process and Rule 26 Meeting Report due by 10/29/18. Signed by Judge David S. Cercone on 9/26/18. (Attachments: # <u>1</u> Exhibit A – Stipulation Selecting ADR Process; and # <u>2</u> Exhibit B – Rule 26 Report Form) (njt) (Entered: 09/26/2018)
10/02/2018	<u>21</u>	MOTION, re <u>20</u> Order, to <i>Reschedule Initial Case Management Conference</i> by UNITED STATES DEPARTMENT OF VETERAN AFFAIRS. (Attachments: # <u>1</u> Proposed Order) (Gal–Or, Karen) Modified on 10/2/2018. (jjg) (Entered: 10/02/2018)
10/03/2018	<u>22</u>	ORDER granting defendant's <u>21</u> Motion to Reschedule Initial Case Management Conference. Initial Case Management Conference currently set for 11/8/18 is hereby RESCHEDULED to 11/19/18 at 10:00 AM in Courtroom 7A before Judge David S. Cercone. Signed by Judge David S. Cercone on 10/3/18. (njt) (Entered: 10/03/2018)
10/03/2018		RESET CONFERENCES: Initial Case Management Conference set for 11/19/2018 at 10:00 AM in Courtroom 7A before Judge David S. Cercone. Text–only entry; no PDF document to issue. This text–only entry constitutes the Court's Order or Notice on this matter. (njt) (Entered: 10/03/2018)
10/22/2018	<u>23</u>	ANSWER to <u>1</u> Complaint, by UNITED STATES DEPARTMENT OF VETERAN AFFAIRS. (Gal–Or, Karen) (Entered: 10/22/2018)
10/29/2018	<u>24</u>	REPORT of Rule 26(f) Planning Meeting. (Gal–Or, Karen) (Entered: 10/29/2018)
11/19/2018	<u>25</u>	Minute Entry for Case Management Conference held before Judge David S. Cercone on 11/19/2018: Laura A. Seider, Esq. appointed liaison counsel for ADR purposes. The parties shall file the ADR Stipulation selecting the ADR Process and the Neutral on or before 11/26/18. The ADR must be completed by 1/18/19. Parties agree to the following schedule for dispositive motions: (1) Motions for Summary Judgments shall be filed on or before January 18, 2019; (2) Responses shall be filed on or before February 19, 2019; and (3) Replies shall be filed on or before February 26, 2019. Non–Jury Case Management Order setting forth summary judgment schedule and FRE 502(d) Implementation Order to follow. (Court Reporter: none) (jmc) (Entered: 11/19/2018)
11/19/2018	<u>26</u>	MOTION to Waive ADR Requirement by UNITED STATES DEPARTMENT OF VETERAN AFFAIRS. (Attachments: # <u>1</u> Proposed Order) (Gal–Or, Karen) (Entered: 11/19/2018)
11/20/2018	<u>27</u>	ORDER – Response re <u>26</u> Motion to Waive ADR Requirement. Response to Motion due by 11/30/2018. Signed by Judge David S. Cercone on 11/20/18. (jmc) (Entered: 11/20/2018)
11/26/2018	<u>28</u>	Joint MOTION for Extension of Time to File <i>Stipulation Selecting ADR Process</i> by UNITED STATES DEPARTMENT OF VETERAN AFFAIRS. (Attachments: # <u>1</u> Proposed Order) (Gal–Or, Karen) (Entered: 11/26/2018)
11/28/2018	<u>29</u>	ORDER granting <u>28</u> Motion for Extension of Time to File ADR Stipulation.ADR Stipulation due by 12/3/2018. If parties are unable to agree, each party shall set forth on the ADR Stipulation their preference for the ADR process and their preferred neutral, and the Court will make the final selection. Signed by Judge David S. Cercone on 11/28/18. Text–only entry; no PDF document will issue. This text–only entry constitutes the Order of the Court or Notice on the matter. (jmc) (Entered: 11/28/2018)

11/28/2018	<u>30</u>	CASE MANAGEMENT ORDER: The Parties agree to the following schedule for dispositive motions: Motions for Summary Judgment shall be filed on or before January 18, 2019; Responses shall be filed on or before February 19, 2019 and Replies shall be filed on or before February 26, 2019. Signed by Judge David S. Cercone on 11/28/18. (kak) (Entered: 11/28/2018)
11/28/2018	<u>31</u>	ORDER implementing Rule 502(d) at the Joint Request of the Parties. Signed by Judge David S. Cercone on 11/28/18. (kak) (Entered: 11/28/2018)
11/30/2018	<u>32</u>	BRIEF in Opposition re <u>26</u> Motion to waive ADR requirement filed by WESTERN STAR HOSPITAL AUTHORITY INC. (Attachments: # <u>1</u> Proposed Order) (Boldin, Phinorice) Modified text on 12/3/2018. (jjg) (Entered: 11/30/2018)
12/03/2018	<u>33</u>	STIPULATION selecting ADR process by UNITED STATES DEPARTMENT OF VETERAN AFFAIRS. (Gal-Or, Karen) (Entered: 12/03/2018)
12/06/2018	<u>34</u>	ORDER denying <u>26</u> Motion to Waive ADR Requirement. The parties shall participate in the Court's mandatory ADR program. IT IS FURTHER ORDERED that the ADR process shall be an Early Neutral Evaluation before Judge Benson and shall be completed within sixty (60) days of the date of this Order. Signed by Judge David S. Cercone on 12/6/18. (jmc) (Entered: 12/06/2018)
12/07/2018	<u>35</u>	ORDER REFERRING CASE to Early Neutral Evaluation. Kenneth Benson is appointed as an evaluator. ENE conference shall be conducted by 2/6/19. The report of Evaluator shall be electronically filed within 7 days of the ENE conference. Laura A. Seider, Esquire is designated as lead counsel. Evaluator KENNETH BENSON is added. Signed by Judge David S. Cercone on 12/7/18. (kak) (Entered: 12/07/2018)
12/07/2018	<u>36</u>	Consent MOTION Requesting Leave for Agency Counsel to Participate in ADR Session Telephonically by UNITED STATES DEPARTMENT OF VETERAN AFFAIRS. (Attachments: # <u>1</u> Proposed Order) (Gal-Or, Karen) (Entered: 12/07/2018)
12/11/2018	<u>37</u>	ORDER granting <u>36</u> Motion Requesting Leave for Agency Counsel to Participate in ADR Session by Telephone. Signed by Judge David S. Cercone on 12/11/18. Text-only entry; no PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (jmc) (Entered: 12/11/2018)
02/04/2019	<u>38</u>	Joint MOTION To Reset Deadline by UNITED STATES DEPARTMENT OF VETERAN AFFAIRS. (Attachments: # <u>1</u> Proposed Order) (Gal-Or, Karen) (Entered: 02/04/2019)
02/07/2019	<u>39</u>	ORDER granting the parties' <u>38</u> Joint Motion to Reset Deadlines. ADR to be completed by 4/1/19. Motions for Summary Judgment due by 4/1/19. Response to Motions for Summary Judgment due by 5/1/19. Reply Briefs due by 5/15/19. Signed by Judge David S. Cercone on 2/7/19. (njt) (Entered: 02/07/2019)
02/07/2019		UPDATE DEADLINES: Deadline to complete ADR extended to 4/1/19. Motions for Summary Judgment due by 4/1/19. Response to Motions for Summary Judgment due by 5/1/19. Reply Briefs due by 5/15/19. Text-only entry; no PDF document will issue. This text-only entry constitutes the Court's order or notice on the matter. (njt) (Entered: 02/07/2019)
03/12/2019	<u>40</u>	REPORT of Early Neutral Evaluation Case has not resolved. KENNETH J. BENSON terminated. Attorney Kenneth J. Benson terminated. The parties are reminded of their obligation to complete the ADR questionnaire and submit within 5 days of the conclusion of the ADR process. The questionnaire can be accessed at www.pawd.uscourts.gov. Click on the ADR icon. ENE session was held held on 3/11/2019. (Benson, Kenneth) (Entered: 03/12/2019)
03/22/2019	<u>41</u>	NOTICE of Appearance by Jill Locnikar on behalf of UNITED STATES DEPARTMENT OF VETERAN AFFAIRS. (Locnikar, Jill) (Entered: 03/22/2019)
04/01/2019	<u>42</u>	MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF VETERAN AFFAIRS. (Attachments: # <u>1</u> Proposed Order) (Locnikar, Jill) (Entered: 04/01/2019)
04/01/2019	<u>43</u>	BRIEF in Support re <u>42</u> Motion for Summary Judgment filed by UNITED STATES DEPARTMENT OF VETERAN AFFAIRS. (Locnikar, Jill) (Entered: 04/01/2019)

04/01/2019	<u>44</u>	CONCISE STATEMENT OF MATERIAL FACTS re <u>43</u> Brief in Support of Motion, <u>42</u> Motion for Summary Judgment by UNITED STATES DEPARTMENT OF VETERAN AFFAIRS. (Locnikar, Jill) (Entered: 04/01/2019)
04/01/2019	<u>45</u>	EXHIBITS in Support of <u>44</u> Concise Statement of Material Facts, <u>43</u> Brief in Support of Motion by UNITED STATES DEPARTMENT OF VETERAN AFFAIRS. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit F, # <u>8</u> Exhibit G, # <u>9</u> Exhibit H, # <u>10</u> Exhibit 2) (Locnikar, Jill) (Entered: 04/01/2019)
05/01/2019	<u>46</u>	BRIEF in Opposition re <u>42</u> Motion for Summary Judgment filed by WESTERN STAR HOSPITAL AUTHORITY INC.. (Attachments: # <u>1</u> Response in Opposition to Concise Statement of Material Facts, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Proposed Order) (Boldin, Phinorice) (Entered: 05/01/2019)